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OFFICE OF PETITIONS

In re	:
David G. Quinn	:
Application No. 09/853,916	: DECISION REGARDING
Filed: May 11, 2001	: PATENT TERM ADJUSTMENT
Attorney Docket No. 5935/57	:
	:

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)," filed January 10, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On December 9, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is twenty-seven (27) days. On January 10, 2005, Applicant submitted the instant "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)". Applicant states that he believes there was an error in the patent term adjustment calculation, in particular because the instant application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of twenty-seven (27) days based on an adjustment for PTO delay of thirty-four (34) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and sixty-six (66) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by thirty-nine (39) and thirty-four (34) days of applicant delay, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 C.F.R. § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin A. Ferriter
for

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